

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

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HIGH ROCK WESTMINSTER STREET LLC,

Plaintiff,

v.

BANK OF AMERICA, N.A.

Defendant.

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CIVIL ACTION NO. 2013-500-S

**DEFENDANT’S REQUEST TO STAY PLAINTIFF’S  
MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND FOR SANCTIONS,  
DUE TO PENDING RESOLUTION**

Defendant/Counterclaim Plaintiff Bank of America, N.A. (“Bank of America”) respectfully requests that this Court stay consideration of Plaintiff’s Motion to Compel Production of Documents and for Sanctions (the “Motion to Compel”) currently scheduled to be heard on April 14, 2014, as Bank of America has produced additional documents to resolve the Motion to Compel without Court intervention. (ECF Doc. Nos. 113, 125, 128, and 142).<sup>1</sup>

Without admitting or acknowledging that the Motion to Compel has merit, that Plaintiff’s document requests are timely, or that they seek relevant, admissible documents and information—and while preserving Bank of America’s objections—Bank of America has produced documents to the Plaintiff solely to achieve a resolution of this discovery dispute.

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<sup>1</sup> Docket No. 113 is Plaintiff’s Motion to Compel Production of Documents and For [sic] Sanctions. Docket Nos. 125, 128 and 142 are BANA’s Response in Opposition to Plaintiff’s Motion to Compel Production of Documents and For Sanctions, Plaintiff’s Reply to BANA’s Response in Opposition to Plaintiff’s Motion to Compel Production of Documents and for Sanctions and Plaintiff’s Motion for Leave to File Supplemental Reply Memorandum, respectively.

Specifically, Bank of America produced the following documents:<sup>2</sup>

1. A report containing Asset Condition Index (“ACI”) Data from the ACI Database for 111 Westminster St. as of February 2013;
2. A Training Manual Explaining the Asset Condition Inspection Process (with score rating guidelines);
3. An Index of Bank of America Procedural Articles;
4. Bank of America Design Guidelines for Electrical, Plumbing, Mechanical, Telecommunications, Electronic Safety and Security and Fire Protection System;
5. Bank of America’s Preventative Maintenance Guidelines;
6. Explanatory Materials on Asset Condition Assessments and Inspections; and
7. Explanatory Materials as to MEP Standards.

Plaintiff, in turn, has agreed to stay its Motion to Compel, pending review of Bank of America’s further production. Bank of America believes that its production satisfies Plaintiff’s outstanding discovery requests. To the extent Plaintiff believes it does not, the parties have agreed to meet and confer to attempt to resolve any remaining issues within five (5) days of Bank of America’s production. To the extent the parties are unable to resolve the dispute, they will promptly reschedule the Motion to Compel, and Bank of America’s opposition thereto, and will jointly request an expedited hearing date.

Defendant understands that Plaintiff still wishes to be heard on the other matter scheduled for the April 14, 2015 hearing.

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<sup>2</sup> As set forth in Plaintiff’s Motion to Amend Pre-Trial Order, Plaintiff seeks: 1) All Asset Condition Index (“ACI”) data for 111 Westminster Street from 2010 through the present date; 2) All versions of the ACI technical and user manuals or similar documents that describe the available output in the ACI system, including the weighting system used in scoring individual building MEP assets; 3) BOA’s “design guidelines” for arc flash studies, short circuit coordination studies, and short circuit analyses, as testified to by BOA’s 30(b)(6) engineering designee on March 17, 2015; 4) All electrical, HVAC and façade maintenance “articles” maintained by BOA between April 2003 and April 2013, as testified to by BOA’s 30(b)(6) engineering designee on March 17, 2015; and 5) An index of all BOA “articles”, together with their effective dates. See Docket No. 144. Plaintiff also requested an asbestos report for 111 Westminster Street from Bank of America’s ID/EA database, which the Bank has agreed to attempt to locate and produce.

Respectfully Submitted,

BANK OF AMERICA, N.A.,

By its attorneys,

/s/ Robert Clark Corrente

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Dated: April 10, 2015

CERTIFICATE OF SERVICE

I certify that on April 10, 2015, a copy of this Request was filed electronically and is available for viewing and downloading from the ECF system and that all parties will receive notice through the ECF system.

Dated: April 10, 2015

/s/ Robert Clark Corrente

Robert Clark Corrente